

Form License Agreement

LICENSE AGREEMENT

This License Agreement (the "Agreement") is entered into as of ___, 2020 (the "Effective Date") by and between THE ART CART, LLC of Southamptn, Massachusetts, a Massachusetts limited liability company ("Licensor") and _____ of _____ a registered attendee at The Art Cart, LLC "Let's Combat Micrographia" training session on _____, 2020. ("Licensee").

RECITALS

WHEREAS, LICENSOR has trained LICENSEE in _____, and LICENSEE desires to use and implement the _____ in LICENSEE'S practice clinic; and

WHEREAS, LICENSEE will use certain proprietary materials of LICENSOR ("Materials"), specifically _____ and _____; and

WHEREAS, LICENSOR owns the Materials and the intellectual property contained within the Materials and desires to retain ownership subject to the terms of this License; and

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the parties have agreed as follows:

1. License Grant. LICENSOR hereby grants to LICENSEE the temporary, non-exclusive right to: use and distribute the Materials for the purpose for which they were created. LICENSEE shall have the right to use the Materials solely in LICENSEE'S clinic.

2. Limitation. LICENSEE shall neither use nor authorize use of the Materials in any way which implies any relationship with, endorsement of, or sponsorship of, any third party or unrelated commercial product or activity without the specific authority of LICENSOR. LICENSEE shall not claim ownership of the Materials nor challenge the ownership of the Materials by LICENSOR.

3. Notices. All Materials shall be marked with trademark and copyright notices as LICENSOR shall direct.

4. Trademark Protection. LICENSOR owns the US Registered Trademarks used in the Materials. All Use of the Trademarks Inure to LICENSOR'S Benefit. LICENSOR shall own all trademarks and all goodwill created by such use. LICENSEE shall not challenge, dispute or contest LICENSOR'S right to the Trademarks.

5. Copyright Protection. LICENSEE understands that the Materials are protected by copyright in the United States and are in every instance published with proper copyright notice. LICENSEE agrees not to directly or indirectly duplicate, publish, distribute, share or otherwise infringe the copyrights anywhere in the world and to report any knowledge of infringement or possible infringement to LICENSOR.

6. License Fee. For the right to use the Materials for one year the LICENSEE shall pay to the LICENSOR a license fee equal to \$1500. For subsequent consecutive years, the LICENSEE may continue to use the Materials for an additional annual license fee of \$500. In the case of an institution, the License Fee shall be paid by the institution, not the individual attendee and the institution shall be licensed to use the Materials.

7. Indemnification. LICENSEE agrees to indemnify, defend and hold harmless LICENSOR and its officers and directors from and against any and all claims, liabilities, judgments, penalties, losses, costs, damages and expenses, including reasonable attorneys' fees and costs incurred by LICENSOR and arising by reason of or in connection with any alleged breach by LICENSEE of any of the representations or warranties hereunder or any act or omission under or in violation of this Agreement by LICENSEE or the employees or agents of LICENSEE including, but not limited to, unfair or unauthorized competition, misrepresentation, copying, and the unauthorized creation, development, display, performance, exploitation, or use of the Materials, Trademarks, Copyrights.

8. Term and Termination.

8.1 Term. This Agreement shall commence of the Effective Date and shall continue for so long as LICENSEE pays the annual license fee and uses the Materials.

8.2 Termination. If LICENSEE breaches any of the terms or provisions of this Agreement and fails to cure the breach within 30 days after receiving written notice by certified or registered mail from LICENSOR specifying the reasonable detail of the nature of the breach, LICENSOR shall have the right to terminate this Agreement by giving notice thereof to LICENSEE. All rights and licenses granted by LICENSOR under this Agreement shall terminate immediately upon the termination of this Agreement.

9. Sub-License and Assignment. LICENSEE shall not sublicense or assign its rights nor delegate its duties hereunder to any party.

10. Non-Compete, Confidentiality and Non-Disclosure.

- a. LICENSEE and LICENSOR agree that the Materials constitute proprietary information which is owned by LICENSOR. This Agreement does not transfer or assign any such ownership and provides only a temporary license to LICENSEE to use the Materials to provide services to its patients. LICENSEE agrees that it shall use the Materials to treat patients as described in the Materials and that it shall not use the Materials for its own purposes, whether or not those purposes may have been disclosed to LICENSOR to any degree directly or indirectly.
- b. LICENSOR and LICENSEE agree not to circumvent the efforts of each other and to maintain complete confidentiality with respect to each others clients, sponsors, endorsers, prospects, suppliers, business referrals, contacts and related parties.
- c. It is understood and agreed that money damages would be not be a sufficient remedy for any breach of this Agreement and that LICENSOR shall be entitled to specific performance as a remedy for any such breach. Such remedy shall not be deemed to be the exclusive remedy for any such breach but shall be in addition to all other remedies available at law or in equity to LICENSOR.

11. Miscellaneous Provisions.

11.1 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to its conflict of laws provisions. The parties irrevocably consent to the exclusive personal jurisdiction (except as to actions for the enforcement of a judgment, in which case the jurisdiction will be non-exclusive) of the federal and state courts located in Springfield, Hampden County, Massachusetts and venue in Hampden County, Massachusetts. In the event of a dispute between the parties relating to this Agreement or in the event of any default under this Agreement, the party prevailing in the resolution of any such dispute or default by a court of law shall be entitled to recover its reasonable attorneys' fees and other costs incurred in connection with resolving said dispute or default.

12.3 No Waiver. Any delay in enforcing a party's rights under this Agreement or any waiver as to a particular default or other matter shall not constitute a waiver of such party's rights to the future enforcement of its rights under this Agreement, excepting only as to an express written and signed waiver as to a particular matter for a particular period of time.

12.4 Disclaimer. LICENSOR HEREBY ACKNOWLEDGES AND AGREES THAT THE MATERIALS ARE PROVIDED TO LICENSEE ON AN "AS IS" BASIS. LICENSOR MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, REGARDING THE IP AND HEREBY DISCLAIMS ALL APPLICABLE WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OR MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. IN NO EVENT SHALL LICENSOR BE LIABLE OR OBLIGATED TO LICENSEE OR ANY THIRD PARTY IN ANY MANNER FOR ANY (A) SPECIAL, NON-COMPENSATORY, CONSEQUENTIAL, INDIRECT, INCIDENTAL, STATUTORY OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, LOST PROFITS AND LOST REVENUE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT PRODUCT LIABILITY, OR OTHERWISE, EVEN IF INFORMED OF OR AWARE OF THE POSSIBILITY OF ANY SUCH DAMAGES IN ADVANCE OR (B) AMOUNT ARISING UNDER OR RELATED TO THIS AGREEMENT. THE LIMITATIONS SET FORTH ABOVE SHALL BE DEEMED TO APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND NOTWITHSTANDING THE FAILURE OF THE AGREEMENT. THE PARTIES ACKNOWLEDGE AND AGREE THAT THEY HAVE FULLY CONSIDERED THE FOREGOING ALLOCATION

OF RISK AND FIND IT REASONABLE, AND THAT THE FOREGOING LIMITATIONS ARE AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

12. Entire Agreement: Modification. This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter set forth in this Agreement, and supersedes all prior agreements or understandings, whether written or oral, regarding the subject matter. There should be no amendments or modifications to this Agreement, except by a written document which is signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives as of the date first set forth above.

THE ART CART, LLC
LICENSOR

By: _____

Witness

LICENSEE

By: _____

Witness

CONFIDENTIAL